



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

March 8, 2007

The Honorable James G. Phinizy, Chairman  
Environment and Agriculture Committee  
Legislative Office Building, Room 303  
Concord, NH 03301

**RE: HB 414 Relative to the Sale of Class A Sludge in Bulk Agricultural Fertilizer Bags**

Dear Chairman Phinizy:


Thank you for the opportunity to testify on HB 414, relative to the sale of class A sludge in bulk agricultural fertilizer bags. The Department of Environmental Services (DES) does not support the passage of HB 414 as written because it inadvertently imposes more stringent packaging constraints on the sale or distribution of Class A sludge that has received sludge quality certification (SQC). If enacted, the language of HB 414 would require that all Class A sludge sold or distributed in New Hampshire be packaged in 2000 pound bulk agricultural fertilizer bags, rather than in smaller bags or by the truckload.

Class A sludge, as defined in DES administrative rule Env-Ws 802.06, means "sludge derived from human waste which is Class A with respect to pathogens under 40 CFR part 503.32 (a) and which meets one of the vector attraction reduction requirements of 40 CFR part 503.33(b)(1) through (b)(8)." In New Hampshire, all Class A sludge distributed "in bulk" (defined in Env-Ws 802.18 as packages of greater than 100 pounds) must also receive an SQC prior to land application. An SQC entails testing representative samples of sludge for 177 parameters, to include metals, volatile and semi-volatile organic chemicals, pesticides, and dioxins. If Class A sludge "in bulk" meets the SQC requirements, there is no prohibition of bulk distribution in 2000 pound agricultural bags or by other more typical means, such as by truck. However, if Class A sludge has not received an SQC from DES and is "in bulk", then it cannot be distributed for land application in New Hampshire.

The "in bulk" definition also effectively establishes a practical *de minimis* of 100 pounds per package for bagged Class A sludge below which SQC testing is not required. One hundred pounds is the typical maximum size that bagged Class A biosolids products are sold as fertilizer in garden centers and other major stores. For example, among the most well known of these products is Milorganite, a biosolids product sold nationally by the City of Milwaukee, Wisconsin. We believe that 100 pounds is a reasonable practical threshold for triggering the SQC requirements because the public health and environmental risk from the distribution of small bags for household use according to direction on the package is relatively small. However, this *de minimis* threshold may also be an issue for consideration by your committee.

Thank you for your consideration and if you have any questions please contact me at 271-2958 or Patricia Hannon at 271-2758.

Sincerely,

  
for Thomas S. Burack  
Commissioner

cc: Representatives O'Connell, Owen and Essex  
Senator Odell

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964